

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE WORK-STUDY SESSION OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
October 13, 2009**

**AGENDA ITEM #1 - CALL TO ORDER AND ROLL CALL**

Mayor Schlum called the meeting to order at 5:02 p.m. in the Fountain Hills Town Hall Council Chambers.

Present were the following members of the Fountain Hills Town Council: Mayor Schlum, Councilmember Contino, Councilmember Leger, Vice Mayor Hansen, Councilmember Archambault and Councilmember Dickey. Also present were the following staff members: Town Manager Rick Davis, Town Attorney Andrew McGuire, Storm Water/Environmental Planner Raymond Rees, Planning and Zoning Director Richard Turner, and Town Clerk Bevelyn Bender. Councilmember Brown was absent.

**AGENDA ITEM #2 - UPDATE ON THE SINGLE TRASH HAULER REQUEST FOR PROPOSAL.**

Raymond Rees, the Town's Storm Water/Environmental Planner, addressed the Council providing the status of the single trash hauler request for proposal (RFP) and an overview of the committee's actions to date and the Town's proposed direction. He stated that he had explained at a previous meeting that the only way to obtain the costs estimates for the services was to issue an RFP. At that time, the then Vice Mayor Archambault had pointed out that the town was not committing to moving forward with the service, the RFP was just for the purpose of gathering information, and Councilmember Dickey had asked that the haulers be consulted to assist with the development of the RFP scope of work. He noted that the scope of work was submitted to the Town Attorney who developed the draft RFP that was presented to the implementation team for their review. He noted that he and the Planning and Zoning Administrator Richard Turner had met with the Town Attorney who stated the second draft would probably be available by the end of the week, which would again be provided to the committee allowing a couple of weeks for their review. The committee would meet again to further clarify any subsequent issues. He stated the RFP was moving forward and staff would be moving forward with issuing it.

Councilmember Contino inquired if anyone from Fountain Hills would be considered or had they been left out already. Mr. Rees responded that anyone who was interested could apply and that all proposals would be considered. Councilmember Dickey clarified that when she had asked that the haulers speak to the committee it was to ensure that none of the requirements would automatically eliminate any of the people that were doing that at this time or could do it. She commented that the RFP would be for everyone to review once they got to the distribution point and that the very nature of a RFP was to solicit the most bids possible in order to get the best service at a good cost.

Mayor Schlum asked when the RFP came forward, would it likely be a trash option, a trash/recycling option, or one over the other. Mr. Rees stated they were looking at a narrow focus of trash and recycling with any of the other options as a pay for service. Mayor Schlum reiterated that cost and quality of service were two huge areas of sensitivity. In response to the Mayor's questions regarding the billing element, multi-haulers, HOAs, and commercial (businesses) Mr. Rees stated the billing element had been built into the RFP that would require the hauler to do the Town's billing; the fact they had not addressed the issue of multiple haulers; the fact that they had not entertained any program with the commercial ventures at this time; and regarding HOAs he noted that they would be working with them and allow their contracts to expire within reason and then bring them into Town's contract as well.

Councilmember Dickey interjected that this was not for multi-family, just single family at this point, but that there might be some options for special services that would be asked for (i.e. special pick-ups). She noted that the Department of Environmental Quality had indicated their inability to fund grants due to economics and that the Town might not be able to hold similar events as provided in the past unless provided for on that level under the requested special services.

In response to Councilmember Leger, Town Attorney McGuire provided the rationale why the Town could not carve out the large HOAs (particularly those gated HOAs that were currently under contract and happy with their services). Mr. McGuire stated that the purpose of taking on garbage and recycling services for the Town was that the Town was taking over that service and that the Town was not at liberty to pick and choose who was serviced. If large areas were left out, then the Town was not really taking over the entire service and it would impact the girth (cost of collection) by the removal of large service area. He stated that in order to achieve a town-wide recycling program service it would need to cover the entire Town. Mr. McGuire pointed out that this case was a little different as contracted haulers were being used and the Town was not utilizing their own vehicles or directly providing the service as a municipality. The other alternative would have been to regulate and require haulers to provide recycling services and not go into the business at all but the Town had gone down the path of a RFP and once that was done if recycling was mandated the Town would need to take over the service in total and not in pieces.

Councilmember Leger asked for clarification relating to the RFP's scope of work as to if trash and recycling would be bundled or would there be two prices, one for trash vs. one for trash and recycling. Mr. Rees responded that was not in the original scope of work that was submitted and that was not the road the committee team wanted to go down. Councilmember Leger stated that what he was hearing was that the Town would be mandating recycling and Mr. Rees concurred that was the case. Mayor Schlum stated that was not necessarily true as they would just be paying for it.

Councilmember Contino asked Mr. McGuire if a gated community was different from a non-gated HOA because if non-gated HOAs had contracts and the HOAs contracts were good through the rest of the year into next year he questioned how that would be changed. Mr. McGuire clarified they had been talking about HOAs in general. In general, if HOAs were under contract with a hauler much like the Town of Queen Creek was doing right now, the plan would be for an implementation schedule that would not interrupt HOAs current contracts. He stated that most of the contracts that had been seen so far were for a fairly short period of time so that a Town-wide roll-out implementation could easily roll in their contract deadlines and terminations. Although not every HOA had been contacted we knew that they were on both sides of the fence. Councilmember Contino stated the opinion that the fees that his HOA currently paid were a lot less than what a Town-wide service would be to which Mr. McGuire responded that the cost would not be known until the RFP responses were back. He stated that in the mean time there was a period of time, somewhat by design, to allow the Town of Queen Creek to go through their process to see what type of bids they received thereby giving the Town a sneak peak at what the costs might look like for a community similarly sized although not necessarily geographically the same as Fountain Hills, which was a little more difficult to get to the homes to give us a ball park to work from before the RFP was issued.

Vice Mayor Hansen questioned if HOAs could not be carved out, how could they carve out the commercial and about how the multi-family would be handled. Mr. McGuire responded that was a different service and what was being proposed was to provide residential units with solid waste and recycling services. That was different from the commercial hauling service as it was not a daily curbside collection but was done periodically depending upon the needs of the business. He stated that many municipalities were not even in the commercial service and that recently some had gotten out of it. Mr. McGuire addressed multi-family service stating that the RFP treated it as residential and would have curbside barrels provided like everyone else. He indicated that they had not gotten to that level of refinement to know if they wanted to carve them out as commercial or residential. He acknowledged they were considered residential service units at the current time and were something that could be considered.

Mayor Schlum stated that most of the condos and such would seem to be more commercial trash collection but Mr. McGuire pointed out that it would depend how they were picked up. Vice Mayor Hansen asked how they could have selective carve outs. Mayor Schlum discussed that the type of collection would determine service. Mr. McGuire stated that the Town would have more of the multi-family duplexes that would act more like single family residential units than multi-family and indicated that there were other interesting situations to deal with.

The Vice Mayor asked where along the way it had been decided to mandate recycling, noting that she recalled only discussions in the past; she questioned if the Council needed to come to a decision if they wanted to

mandate recycling or still have it that people could subscribe to recycling only if they wanted it. Mayor Schlum indicated that was why he had asked if the committee had narrowed in on something and it had sounded like they were focusing on both. He stated that ultimately the Council would have to be comfortable with it and should be discussed.

Mr. McGuire clarified that the RFP was set-up for roughly four services discounting the requested Town services (costs were requested for providing Town facilities and events with solid waste and recycling services), which were supplementary services. Regarding the curbside level it was asked what they would do in terms of a per household choice (volunteer green can service) and a bulk waste service on demand with these services by consumer demand and not Town mandated services. He indicated that recycling could be on that list but that then would then get away from Town-wide mandated recycling and the core purpose of the Town providing service and carving out gated communities with their own service.

Vice Mayor Hansen asked if it was done that way would they be able to carve out gated HOAs and Mr. McGuire said that took away the one thing that was common to all of it, which was to require recycling throughout the Town and would raise the issue for discussion. He indicated that although that was a possibility he was not entirely comfortable with that approach noting that the law was so scant in this particular area (takeover of an area already serviced by private providers) but he noted that there was a lot of flexibility.

Councilmember Dickey pointed out that the problem with mandating recycling for multi-family was with the dumpsters because many of the complexes were built with parking requirements and to put another dumpster on-site might require messing around with those numbers. She reminded the Council one of the big reasons for HOAs being part of the Town-wide contract had to do with the number of trucks on the Town's roads coming in on multiple days, which was something that they were trying to avoid (i.e. noise and road damage). She discussed that if recycling were not mandated, and if the on-site bins located in the Town complex were to be removed, she felt that they would see that many of the people would like to recycle. She pointed out that those using the bins now were those who were not getting recycling through their private haulers. Councilmember Dickey expressed that the Council had not yet made a decision on this because they had not made the decision to go forward yet with the RFP and that was what they were doing now. Mayor Schlum stated that helped answer his questions about the process.

Councilmember Leger stated he would have a better comfort level with the RFP if the haulers had options for different price structures for different carve outs (i.e. given the number of household what would be the costs for the various service options). He stated it would be a Council decision in terms of where they wanted to go with this, but he wanted the option of knowing what the price structure would look like. He noted that advocates for mandated recycling might be able to use that information as leverage for their argument depending upon the price structure. Councilmember Leger indicated that he did not want to go through the process and then have the discussion only to ask what the cost would be to unbundle services under various options.

Mr. McGuire said staff would be happy to do that but the issue was that the Town's committee decision so far had been to use the recycle bank system to offset the solid waste services. He explained that in most contracts there was an associated municipal revenue stream for recyclables that varied depending upon the contracts and the types of recyclables. The Town's committee thought was that in order to keep the cost down for solid waste collection and to encourage Town-wide recycling, whether through the recycling bank or just a direct offset of that revenue stream, was to have the haulers take that cost and offset it against the solid waste charge so that the solid waste charge was artificially lowered by applying the recycling revenues and not allowing a revenue stream to come back to the Town that normally would.

Councilmember Leger stated that made a lot of sense and that he understood they were moving in that direction with the recycle bank; however, because the Town was going through the process, he was just trying to be proactive and the more data they had the better position they were in to make the decision. He asked if the recycle bank could be used for just those people that were participating in recycling. Mr. Rees responded he was sure they could and that it was on a contractual basis with the hauler and they put those chips on the containers for identification. He stated that the premise behind that was to get as much recycling behind that as possible so there was more money coming back into the community. Councilmember Leger reiterated that he

would like to have the options of looking at the different price structures as he believed the residents would as well.

Mr. McGuire recapped Councilmember Leger's request for the purpose of clarification asking if he wanted to have staff provide cost estimates in terms of HOAs that had at least expressed through the members heard from. Mr. McGuire asked Mr. Rees if there had been conversations with entire HOA boards and Mr. Rees responded yes. Mr. McGuire asked that from those HOAs that staff knew for sure were a yes or no if Councilmember Leger wanted the contract reduced by that number and the hauler told to presume one price at X number of households and another price at Y households. Councilmember Leger said that if engaging in a carve out of HOAs that information would be helpful, but Mr. McGuire's prior statement had indicated that the Town was not moving in that direction for a variety of reasons. Mr. McGuire asked for further clarification as to what the haulers were being asked to provide in the RFP. Councilmember Leger said for X number of household what would be the cost for trash, for X number households what would be the cost for trash and recycling as he wanted to stratify the price structure for different services. Mr. McGuire stated that the RFP was broken out in terms of times per week and the cost so it would be easy to extrapolate that information. Councilmember Leger reiterated that data on the carve out of HOAs would be helpful information. Mr. McGuire commented that he thought that could be accomplished.

Mayor Schlum asked Mr. Rees to talk vacation schedules and whether there would be the ability to bill users for when they actually needed the service (referencing winter visitors). Mr. Rees said that the provision existed in the RFP to allow part-time residents to suspend service. The Mayor asked how the Town would ensure that once the award was made that pickups did not happen by multiple providers working for the hauler on multiple days in the same neighborhoods everyday (i.e. negating the issues occurring today). Mr. Rees responded there was a provision in the RFP that the hauler would have to provide a schedule that was acceptable to the Town that would list the time and days they would be in Town. The Mayor asked how the community would be evaluated as to the number of trash bins that it would be required to have. Mr. Rees replied that some information existed in the Town's Planning and Zoning Department but generally the Town would have to rely upon the hauler to assist in mapping out the area.

Councilmember Leger commented that as this discussion has occurred over the years he noted that it had been about recycling, trip reduction, air quality, and he felt that what it really was all about was what would truly benefit the community, putting the community first. He made the observation that the notion of trip reduction would be a helpful tool if those calculations could be provided as this was part of the whole discussion (i.e. how many trips have been reduced with this proposal and how has that impacted the streets and the environment). Mr. Rees said he would look into that.

Mr. McGuire stated that he thought the Town Engineer Randy Harrel had prepared calculation of sorts on that a few years ago and suggested that perhaps that data could be used as a starting point to extrapolate the information for which Councilmember Leger was looking. Councilmember Leger acknowledged he had been present at a couple of citizens meeting when those numbers were presented and he had felt those numbers were unrealistic and he stated that he did not think they would know what the trip reductions were until they looked at the haulers proposals. He indicated interest in taking another look at it. Mr. McGuire agreed that it would be a bit of swag and stated that staff would provide what numbers they could and that they would not ever be able to adequately map or analyze the streets. Councilmember Leger stated if the use of the streets was reduced to one hauler then he felt there would be a way to get to those numbers and he agreed more information would be available once those RFPs were returned.

Councilmember Dickey said she thought they had seen 20 – 25% of the road damage was done by these trucks so that was another way to look at it. She understood that while they were trying to get the best costs for everybody she did not want to lose site of the philosophical (leadership) argument about this. She expressed some of the reasons for moving forward as tonnage did not go into the landfills due to the recycling and that this would affect environmental and air quality issues. She asked if staff could provide a run down on what the 90 cities in the league did through a municipality (did they recycle) along with some costs or differences that they had seen, what the landfills had seen and things like that. She expressed that she did not want to get bogged down on only one item.

### **AGENDA ITEM #3 - DISCUSSION OF THE TOWN'S LIQUOR/SECURITY POLICY.**

Community Center Director Samantha Coffman addressed the Council relative to this items through the use of a PowerPoint presentation that highlighted a timeline of events and notifications to date, the updated liquor policy for Special Events and how that affected and benefited non-profit organizations, and the Community Center security procedures.

Vice Mayor Hansen read from pg. 2 in the Policy and Procedures, #11, which said, "the Center required at the licensee's expense security personnel as may be determined to be appropriate for the event". She asked if that left the door open to not have security for events like the Historical Society Dinners. Ms. Coffman replied that referred to the fact that the MCSO ultimately decided the number of officers that must be present at the event depending upon the number of guests. The Vice Mayor commented that there was still no latitude as far as the particular event was and Ms. Coffman confirmed that was correct; however, Ms. Coffman stated the only exception was that the Historical Society's every other month dinner and that they had sort of been grandfathered in, never had to have security, and staff knew they were not going to get out of control (over the last eight years no incidents).

Mayor Schlum stated that sometimes by removing something was the best answer rather than adding more. He reiterated the fact that staff had only received positive feedback and that this change benefited the non-profits in their fundraising efforts and took away the concern that the Town was charging too much for alcohol.

In response to Vice Mayor Hansen, Ms. Coffman stated liquor could not be served past 10 p.m. due to State regulation and that it was not a Town regulation. Mr. McGuire stated that he had been troubled by that State provision as it related to non-licensed facilities with the restriction of 12 p.m. to 1 p.m. He stated that the (10 p.m.) rule was adopted as probably the best fit in terms of the Town not having an active license and was a bit of an odd duck but technically the Town was not a non-licensed facility and that the Town might have surrendered some of the flexibility.

Mayor Schlum asked how bars served beyond 10 p.m. to which Mr. McGuire pointed out that they operated under their own liquor license. He commented that while the Town operated under their own liquor license they were free to go as long as liquor could be served. Mr. McGuire explained that this provision was in the State's regulations that specifically applied to a government building that did not need to be licensed. Because the Town was not using its license (inactive status) to allow for other users to come in like this and it triggered this provision that he was not entirely sure applied. In order to make it work as an unlicensed facility (as it was being treated) that provision probably was in affect although it might have been the intent of the provision as to how the Town was currently applying it.

Ms. Coffman made the observation that in the past the latest the Community Center's bar had been open was 10:30 p.m. (1/2 difference) and typically no events ran past 11 p.m.

Councilmember Leger asked about item #11; if security was needed primarily when alcohol was served; and under what other criteria. Ms. Coffman responded yes, security was needed if alcohol was served; however, she noted that there had been a few instances where there were large events (400-500 people) when an officer was required to be there just in case something happened due to the fact that there were only two people working in the Community Center and they were not bouncers or police officers. She commented that security was really for the protection of Town staff in case something was to get out of control.

Mr. McGuire clarified that staff was not intending to bring this item back to the Council for formal adoption unless so directed.

Vice Mayor Hansen questioned how long the Town's liquor license could stay inactive. Ms. Coffman replied that the license could be inactive for five months and after that to remain inactive the license would cost \$100 per month (payable to the State). Mr. McGuire said further Council feedback would be required but for the

remainder of this fiscal year the delta would save around \$600 - \$700; however, then the question became did the Town want to have a liquor license at that facility. Ms. Coffman stated that the liquor license was slated to expire at the end of January 2010, which was the end of the five month period. Mr. McGuire stated that it appeared staff would be back with that question.

#### **AGENDA ITEM #4 - PRESENTATION AND DISCUSSION OF THE UPDATED GENERAL PLAN 2009.**

Planning and Zoning Director Richard Turner provided the timeline of this project including the history as well as the current status of the project, where staff would like to go in the coming weeks and months, a review of the changes within the general plan, touched on the downtown vision plan, and reviewed some of the responses received from the agencies that received a copy of the updated general plan highlighted through a PowerPoint presentation. He noted that the Council would hold their hearing on the updated General Plan this December and that every city and town must approve a new general plan every ten years. For the Town of Fountain Hills that meant 2012. He explained that this project began as a technical update but staff now were of the opinion it should be transitioned into the ten year plan as they felt it was the fiscally responsible course of action to take. He stated that if that action was taken, then there would be an election held in May 2010. Staff did not feel that transition would constitute a significant shift from where they were now because the Town was substantially built out and platted. Mr. Turner listed the changes from the proposed plan vs. the 2002 plan as being lots of corrections; minor updates, changes in wording, significant changes in format, changes to goals/objective, new objectives, implementation activities – area specific plans, Ellman Property, new exhibits- soils, zoning, land ownership and service/employment uses; environmental policies, financial overview, sidewalk plan, major vs. minor amendment distinctions clarified, requirements of the State Law, and more minor amendments. He felt that the result of adopting this general plan update would mean that more changes would be processed as minor amendments although the minor amendments would still require public hearings by both the Planning Commission and the Town Council with periods of legal advertising prior to both with a recommendation by the Planning Commission to the Town Council on minor plan amendments.

Mr. Turner discussed the Downtown Vision Plan, noting that the Council had adopted the plan on September 17, 2009, and directed staff to proceed with an area specific plan for that plan, which staff was currently doing. Regarding the Downtown Vision Plan being implemented, he stated that staff would be looking at amending the TCCD regulations, which would assist with implementing the downtown vision, and he referenced two maps showing the downtown districts and the 2009 General Plan map noting that it was similar to the 2002 General Plan map. He also referred to the implementation activities page and summarized it as a list of 26 items that related to specific objectives in the plan and each could be considered a work project. He announced that some responses had been received from the transmittal of the General Plan: Fountain Hills Sanitary District responded, clarifying statements regarding their system and added a section on reclaimed water, and Chaparral City Water Company responded to correct some misinformation contained in the draft plan. Mr. Turner commented that staff would provide the updated draft to the Planning and Zoning Commission in advance of their public hearings and that the Council would receive that same document in advance of their public hearing along with any changes recommended by the Planning and Zoning Commission. Mr. Turner summarized that this updated plan should be the Town's ten-year plan and should save the Town from having to start another plan update process a year from now. He commented that the draft plan was in the middle of the public agency review phase, that the public hearings would follow, and that most of the proposed major changes addressed the need to improve the Town's economic base.

Vice Mayor Hansen referred to the implementation sheet and asked for clarification relating to the two water resources elements (i.e. Fountain Hills Sanitary District and Chaparral City Water). Mr. Turner stated that both were carryovers from the 2002 plan and that much of what was in the 2002 plan remained because staff felt there were no changes in circumstance that would cause the removal of those objectives. He pointed out that the Planning and Zoning Commission committee had reviewed each of these activities word-by-word to ensure it was still appropriate to leave these items in the plan. He stated that if the Council would like staff to reconsider any of the items, they would be happy to do so. In response to the Vice Mayor regarding what their inclusion as

work projects meant since they were separate entities, Mr. Turner explained staff would embark on a project that might involve other resources and involve those entities studied and that some items would involve staff to a larger degree than others with each customized and flushed out in more detail in terms of what was hoped to be accomplished and what was involved. Vice Mayor Hansen asked what cost of development meant relating to these two items and Mr. Turner stated cost benefit analysis. In response to the Vice Mayor regarding if this referred to a joint project with the separate entities and for what the purpose, Mr. Turner responded the cost of development was the other element that related to that activity, that the plan was divided into various elements and cost of development was the title of one of the chapters in the plan, the table referred to where more information could be found on that activity and was supported by information in the cost of development element. He said that in terms of the benefit analysis that would be an examination of whether it was a good idea for the Town to eventually acquire the resources. Mr. Turner reiterated that these items were carryovers from the 2002 plan and were not generated as new for this update.

Mayor Schlum commented he was not sure how useful those would be since they might not be of any interest and suggested that telecommunications and transit might be the same thing. He stated he was not sure he fully understood what those would entail and would have to look at them. Discussion ensued on how to look up information of the items listed in the table. The Mayor commented that the Vice Mayor brought up a good point that they did not want to spin their wheels and have staff spending time, money, or expecting to implement plans that were not in alignment with anything that the Council had discussed. The Vice Mayor acknowledged that was probably one of the purposes of the meeting.

Mayor Schlum stated that the new land map use showed property outside Fountain Hills and asked for clarification. Mr. Turner responded the information was added because it was available and valuable to include as it gave an idea of what was existing or proposed for adjacent properties so various property relationships could be viewed. Mayor Schlum asked where more information was available on the area specific plan. Mr. Turner stated that staff was currently in the process of overlaying a crosshatch pattern on three areas of the Town and pointed to the areas on displayed map contained in the PowerPoint presentation. He stated that would be added to the map so there would be a boundary and he noted that the information was contained in the text of the draft plan. Mayor Schlum questioned why the colors changed as it made it difficult to compare to the last plan so see the revisions and if there was an easy way to go through it to see what actually changed. Mr. Turner said that an analysis could be done that would then be provided to the Council.

Mayor Schlum asked if generally both the General Plan and the Area Specific Plan needed to be updated to move forward and to get developers moving forward with proposals. Mr. Turner responded said that would be advisable although the area specific plan would be approved prior to the general plan ratification by the voters and that the approval of the area specific plan was actually consistent with the 2002 plan as well.

Mayor Schlum asked Mr. Turner to explain why the election should be held earlier (May 2010) noting that the General Plan election was not due until 2012. Mr. Turner said that was because staff would have the work done and there was no reason to delay. Mayor Schlum asked if there was a requirement to hold the election based on these changes as they were not substantial enough to require an election.

Town Attorney McGuire clarified that one of the decisions being made at the staff level was to decide whether this qualified as a major general plan amendment, which was done once a year, or whether this would be a new plan and adopted. He stated that the number of changes made clearly kicked it over as a major general plan; however, the question was, were the changes significant enough to consider this a new plan. He was of the opinion that on a number of different levels they probably were noting that there were some elements that were not applicable anymore, which needed to be fixed. He reiterated that this was a fiscal decision. If the Council did not adopt this as the "every ten-year plan", the Council would need to do whatever updates and then plan a year from now to begin the process again to bring it before the voters in 2012. He explained that the thought was that it made sense since staff was going through the effort and expending the money now to put it before the voters in 2010 when an election was already scheduled to save on the cost of an election and anymore general plan update work that might happen during that time. He said that it really was close to being a new plan.

Mayor Schlum noted that the Council would decide that at a future meeting. Mr. McGuire stated that a deadline existed to call the May 2010 election in January so staff would need to know well in advance of that.

Vice Mayor Hansen asked if the General Plan was required to be voted on at the next general election. Mr. McGuire stated he thought State Statute language did say general election. He said it was a good question and he would look into that, but he thought the deadline was close (November) to put it on in March 2010. The Vice Mayor pointed out that if all candidates were elected outright at the March election the Town would not have to hold an election in May and there would be cost savings.

Councilmember Dickey commented that the next agenda items could possibly be an election item (perhaps May). Mayor Schlum said that was a good point as well.

Councilmember Leger asked for more information on the area specific plan (specifically Shea/Saguaro Boulevard) relating to how far it extended beyond what exists (i.e. were they rezoning or addressing the property behind Target (the hillside)). Mr. Turner said the map did not indicate any expansion of commercial areas. Councilmember Leger questioned if the property behind Target was protected as he knew that the Planning and Zoning Commission had discussed expanding the commercial property (i.e. to where the hillside property was). Mr. Turner stated that that discussion would take place when the area specific plan was being considered. Councilmember Leger asked if the area specific plan opened up the door for that discussion to occur at a later date and Mr. Turner confirmed that was correct.

#### **AGENDA ITEM #5 - DISCUSSION OF A POSSIBLE AMENDMENT TO THE FOUNTAIN HILLS TOWN CODE RELATING TO THE FILLING OF FUTURE COUNCIL VACANCIES.**

Town Clerk Bevelyn Bender addressed the Council stating that staff was asked to bring forward to the Council a possible revision to the Town Code that would give the Council an opportunity to fill a vacancy through the election mechanism. Ms. Bender provided text from State Statute along with the current language from the Town Code for the purpose of comparison as well as the steps taken by the Council to fill the last vacancy. Ms. Bender noted that the entire process took 51 days to complete. She stated other municipalities were contacted to see what their processes were and the results were that they either mirrored the Fountain Hills' Town Code, mirrored State Statute, or they included a process. However, what the processes took into account was when the vacancy occurred and length of the remaining term. She reviewed that there was a 30-day minimum process to gather signatures and file nomination paperwork/petitions and requested that any revision to the Town Code ensure that there was enough time allowed to meet all statutory election requirements. She asked the Council for feedback on whether they wanted the Town Code to remain as is, mirror State Statute, add a process/timing component, and if they wanted to address filling a vacancy of the Mayor position.

Councilmember Dickey asked for clarification as to how an election would occur based upon State Statute. Mr. McGuire explained that State Statute, when the Town Code was adopted, had allowed for the appointment for the vacancy for the remaining of the term; however, subsequent to that time, about 2003, it was amended to provide an option of appointment for a period of time until the next election. This amendment allowed for those really long vacancies that occurred prior to that period of time for collection of signatures and getting on the ballot before the two year election that came in the middle of each councilmember's term. He explained that now State Statute allowed for both options, which was more of a function of timing than anything else, either appoint for the remainder of the term or appoint until the next election. However, the Town Code currently had only one option and what Ms. Bender was suggesting was that one of the simplest options was to mirror State Statute, which would allow the Council to do either one. He reiterated that communities had done both with some communities having the same code language as the Town that was probably a direct descendent of the code that was adopted at incorporation as everyone had used the same League Code as the base document and until it was changed it would be the same in all communities. He explained that other communities such as City of Peoria had a very detailed process in place for when and how they did it. Such as, if an appointment occurred within days 1 and X then that was the process; or if it occurred within the next group of days then that would be the process so there were any number of things were available to the Council to use. He noted that Ms. Bender

was looking for direction as to how the Council wanted to frame this based upon their expressed desire for flexibility the last time we had this occur.

Councilmember Dickey pointed out that the idea of saying when it had happened the Council could call an election was not an option and that the Council would have had to wait until the next election (March 2010) according to State Statute. Vice Mayor Hansen clarified that per State Statute a special election would not be called; it would take place at the next regularly scheduled council election. Councilmember Dickey concurred with the Vice Mayor and stated that they were obviously talking about reacting to what had happened last time. Councilmember Dickey commented that even if they had waited, the election would not have occurred although she acknowledged that there had been the desire by some that the Council should not appoint anybody and that an election should have been held; they could not do. The Council could only appoint somebody until the next election and could not hold an election right when a vacancy occurred.

Mayor Schlum said the minimum would be to have the other option adopted in the Town Code so that an appointment could be made until the next election rather than to fill the term. He asked if calling for an election would not be available because of State Statute. Mr. McGuire said what Councilmember Dickey was explaining was if there had been a third option under State Statute that provided the option to call a special election anytime, which did not exist. He noted it probably did not exist due to purely practical purposes. He said the timeframes for submitting petitions, getting signatures and the number of days that build in front of an election would probably only apply to only a really small number of very long appointments (i.e. three years and nine months). He reiterated that practically speaking the two options available to the Council were about what you would have in most cases anyway and the third option was not all that necessary; however, there were some charter cities that did have the ability to call a special election at anytime for that specific purpose.

Councilmember Dickey noted the only thing she saw missing was a timetable of when to do the appointment and she stated it was her preference that the timetable be better defined. Mayor Schlum agreed and gave an example of the remaining term being less than nine months until till the next election, whereby the Council might consider not appointing, but he noted there were obvious benefits to get someone in to serve. He stated that in the past, it had been discussed that appointing someone might give them unfair advantage in the election; so the question became, do you bar someone from running if that was a concern. He agreed that the timing issue should be addressed. Vice Mayor Hansen was not sure it would be an advantage if the person only served for nine months because if they did a really bad job and they ran, then the voters would decide if they wanted to vote for the individual. She stated the opinion it could work both ways. Mayor Schlum concurred.

Councilmember Dickey asked if they could add that the appointment should occur within sixty to ninety days of a vacancy regardless if the election was more than six months away. She expressed the opinion that there needed to be two time periods: (i) one to deal with the election and (ii) one regarding the vacancy and how soon the Council should appoint someone. Mr. McGuire stated that the City of Peoria had considered that and their process was about three code pages of complicated process and all the calculations were included to consider not only the time period that the Council had to make the decision but then how did that dovetail into the requirements for that next election. He expressed concern that a gap in time might be created just big enough to cause a candidate not to meet their filing requirements in order to be on the ballot, which would result in a real mess.

Councilmember Dickey questioned if the time frame was within nine months of the election, would they not appoint somebody. Mr. McGuire clarified that the exact days could be identified if the Council wanted to go down that road; however, he noted it was an interesting area and there were not many charter cities that had different provisions and had specific provisions as to when the Council had to appoint. He pointed out that Avondale was one of the odd ones; they had to fill a vacancy within thirty-one days, otherwise that was a charter violation. He commented that it was an exceedingly fast process when trying to deal with a vacancy, particularly a vacancy within terms of dealing with a death, the grieving period, and going into the interview process right away. He stated the opinion that that period was probably too short in terms of dealing with the type of appointments that this Council has had to do. He said that there might be time periods where that was all

they had. He said the time period could certainly be calculated and we had tried to do that using Peoria's process as the model but staff decided that we did not want to present the Council with pages of Code revisions to talk about.

Vice Mayor Hansen stated her support for keeping the code revision as simple as possible by cautioning that State Statute read that way for a reason and that as stated it provided the needed flexibility. She expressed her hope that Councils would proceed on what was best. She said that having the ability, just because of the case they had just gone through, with the length of that term so long that it would have been a good opportunity to have this person able to run at the next election. She agreed with the Town Attorney that if the Council tried to come up with every scenario, there was a possibility of one falling through the cracks thereby creating another situation to be dealt with. The Vice Mayor reiterated the opinion that following State Statute would be the safest way to go.

Councilmember Archambault concurred with the Vice Mayor stating that the Council needed the latitude because at some point a decision needed to be made. He spoke to the issues the Council had faced when dealing with the recent vacancies (due to the deaths of Councilmember Nicola and McMahan). He reiterated that the Council needed flexibility; he stated his support for keeping the process as simple as possible.

Councilmember Dickey agreed with keeping it simple and keeping the part of State Statute that said "the Council shall fill a vacancy that shall occur by either of the following", noting that shall usually meant shall. She pointed out that Councilmember Nicola had died in May with a little more than year left of her term and she questioned when do you start not serving the community by having six members and commented that at that time there had been a couple of three-three votes. She expressed that the text needed to be clear that the intent was that the vacancy shall be filled; she was fine with it stating until next election or for the unexpired term as determined by the Council.

The Vice Mayor questioned if Councilmember Dickey was looking at "shall fill vacancy" more like as soon as possible or with a reasonable expectation of time, which provided for a little more urgency rather than whenever you felt like it. Councilmember Dickey addressed if no one had won at the March election then no one would have been appointed.

Mr. McGuire stated that was the interesting interpretation issue on that particular statute; did the "shall" apply to the method or the action. He said it had been read previously to apply to the action; this was the way that you did it and not that you had to do it. He expressed that in any reasonable sense the Council wanted to make the appointment in some period of time but even if it said in "some reasonable amount of time", that would be up to those members sitting on the dais as to what was reasonable and that the check was the public's expectation as to what was reasonable. He noted that "shall within a reasonable period of time fill by appointment or until the next election" could be inserted pointing out that it would be up to the discretion of the Council seated at that time and their interpretation of what that meant. He said he would not ever want to be placed in the position to state that it was a Code violation not to do it within a period of time that anybody but the Council deemed reasonable.

Councilmember Dickey said the only other thing would be to find out when that went into law and if there were any minutes that discussed the legislative intent on that. She suggested the verbiage be: The Council shall fill a vacancy. She asked if there was any way to research it a little bit to find out what the legislative intent was. Mr. McGuire said that had been looked at and he acknowledged holding interesting discussions with former Councilmember McNeill as to what that meant. He noted that at the end of the day the legislative discretion of the Council to appoint one of its own was not really something that could be tightly clamped down on. He expressed his hope there would be few situations in the future as had occurred in the past (the death of seated councilmember).

Councilmember Leger agreed with those councilmembers who had spoken that at least State Statute gave some options and within those options it allowed for some judgment and discretion. He said he was not opposed to

seeing some time limits as mentioned if it could be done simplistically. He proposed for example, #1, which said the appointment for the unexpired term - up to one year, because you could have someone go through the selection process but if they only had a short amount of time to serve, that it would take a new council person a few months to go through the process and a few months to catch up and get into sync with things. He made the point that he did not think they would want to appoint someone for less than a year.

The Vice Mayor responded that there might be citizens out there that would like to serve for six month or perhaps a former council person who would be willing to be appointed for six months who did not want to go anywhere beyond that. She pointed to the fact that there were board and commission members with expertise who were also familiar with how the town functioned. She stated her preference for not closing that door because the time frame might only be six months because she could think of a few former council people that would be good to get into that slot.

Councilmember Leger asked if there should be a caveat that they would not run for election to which the Vice Mayor responded no, there was nothing wrong with that if they wanted to run. Vice Mayor Hansen stated the question was more, was it fair to expect someone to serve for only six months and in some cases it was up to the individual. If they were not interested in that, then they would not apply. Councilmember Leger referred to the process that they had just gone through stating that it had taken approximately ninety days and if only six months of the term remained then they would serve only a short period of time. He indicated that he could agree with the Vice Mayor if they could appoint from day one for six months, but the process in itself took about three months. The Vice Mayor said that this process had taken so long because they knew they were appointing someone for almost four years. Councilmember Leger agreed but pointed out that the Council had all been on board with making it a citizen involved process short of an election, which had added to some of the time. He felt they could get into the angst of if the Council appointment was just for six or nine months, especially if they were split (3 to 4 vote); he pointed out that it could be difficult for that person.

The Vice Mayor asked if the clean short language from State Statute could be utilized and then the Council could talk more at length about the process (using something like the Council Rules of Procedure or something not codified but that would still be in policies and procedures existing elsewhere). Mr. McGuire responded that could occur and that it was more of a function of how difficult would it be to change. He agreed that it might behoove placement in the Council Rules as a process (guideline to this council or future councils). He addressed the point of short terms stating that it was an excellent point that a former councilmember might be available for an appointment because that was currently in place in Avondale. He explained that the vacancy recently created on Avondale's council was because a councilmember had moved out of state and a former councilmember who had no desire to run in another election was tapped within days because it was such a short term left and he was willing to step in and serve for a little less than one year. He stated that processed allowed for some flexibility without going into a strict set of rules but would provide the opportunity to look into the Council rules if so directed.

Mayor Schlum asked why the filling of a vacant Mayor position was different. Mr. McGuire responded there were two points: Would the Council want to have the ability and flexibility to appoint anyone to the Mayor seat or would the Council want to have it be an appointment from the Council, thereby leaving a vacancy on the Council to be filled by the regular appointment process. He stated that most of the communities surveyed selected a member from amongst the Council to become the Mayor and the vacancy was left to be filled through the process. The Vice Mayor interjected that was the way that Councils filled the Mayor's seat that did not have a direct election of the Mayor and Mr. McGuire confirmed that was correct. However, Mr. McGuire noted that in the absence of the Mayor the Vice Mayor would take over but that staff was not sure that was strong enough to cover a full appointment so staff was asking for direction on this point. He stated that if it was the desire of the Council that the Vice Mayor becomes the Mayor that was great; however, he did not feel comfortable making that type of a call but indicated the intent to codify whatever the direction was.

Councilmembers individually stated their preference for selection from amongst the seated Council to fill a Mayor vacancy. Mayor Schlum said that would be important especially if the Mayor term was changed to a

four year term. Councilmember Leger agreed and asked if the Council needed to have their discussion on item #6 as it would make a big difference between whether it was a four year or two year term in terms of what the process might be for assigning or electing a Mayor. He explained that under some circumstances if it were a two year term and someone were standing on the body, that would be fine but then if it were for four years, he stated the opinion that the citizens might have an issue with that as the decision would have been taken away from them for a four year time period.

Mr. McGuire stated the Council could still do the same thing. It could be treated just as a vacancy on the Council since they were electing for two years. He stated that what would occur would be that a Mayor would be elected for the short (two years) and then go back to the other method, or if the two year term remained in place, it would just be on the regular cycle. Councilmember Leger asked if the State Statute spoken about earlier, if the Council went in that direction, could apply in this case as well and Mr. McGuire confirmed that it could. In response to a question by the Mayor Mr. McGuire clarified that with the case of a four year term a Mayor would be elected for the short term just like what would be done with a Council vacancy that had three years left on a term so that the stagger would not be disrupted so they were elected for the shorter term so as not to upset the stagger. The Vice Mayor interjected that the Mayor position would be elected from amongst the seated members rather than the citizens.

Councilmember Dickey asked if the councilmember who was asked to be Mayor had a long period of time left on their term would just vacate their remaining term and Mr. McGuire confirmed that was correct if the Council's decision was to that the Council filled the vacancy of the Mayor and the Council did not give it the same options for filling the Council vacancy then that would be stepping into whatever term was left and the vacated Council seat would be the one the Council would appoint to by applying the regular rules to it. He said that if he applied what he was hearing relating to the other option, the Council would use the same rules for the vacated Mayor's seat as for the vacated Council's seat so that if the term was longer than two years plus whatever the required time period for signatures, that the Council could appoint for that period until the next election or just appoint for the remainder of the term so that gave the Council the flexibility to go either way.

Councilmember Dickey stated that the Councilmember might in essence be giving up a couple of years and Mr. McGuire stated that they could be jumping into a shorter Mayor term. The Vice Mayor suggested that the person could go back to their position and Mr. McGuire stated the Council could reappoint. Councilmember Leger stated these were good points and pointed out that the process needed to be as clear as possible. He asked that they remember what they had struggled with when Councilmember McMahan passed away noting that if they used the same process to appoint for the unexpired term, there was the possibility that if they went to a four year Mayor's term rather than to the election, and for example, you were six months into the term and the Council appointed someone there was a possibility that the person could be appointed by the Council for the remainder of that term, which would be three years; regarding the Mayor's position the Council would not want to take that vote away from the public. He stated the opinion that it was a simple solution but one he was a little uncomfortable with that. Mayor Schlum asked if that was what they had just talked about, making it a two year term. Mr. McGuire stated that would be an option.

The Vice Mayor suggested moving ahead based on the two year Mayor term noting that Council could always modify it if the four year Mayor's term went to an election and the voters ratified it, because right now the Mayor's term was still two years. Mr. McGuire stated that was a good point and because of that, the appointment would always be for the shorter period because it was a two year term. The Mayor summarized the discussion stating that the Council's desire was to fill an elected position through an election as quickly as possible.

**AGENDA ITEM #6 - DISCUSSION OF A POSSIBLE AMENDMENT TO THE FOUNTAIN HILLS TOWN CODE THAT WOULD ALLOW A 4-YEAR MAYOR TERM WITH PLACEMENT OF THE QUESTION BEFORE THE VOTERS ON THE MAY 18, 2010 BALLOT.**

Town Attorney McGuire addressed the Council relative to this item. The Mayor questioned if he needed to recuse himself from the discussion and Mr. McGuire stated no and he clarified why for the benefit of public. He stated the question had come up earlier this summer as to whatever happened to the decision of a four year Mayor term. He confirmed that this item was not being brought forward by Mayor Schlum. Mr. McGuire referenced information that he had provided to the Council that laid out the legal foundation for moving the Mayor seat into a four year term. He shared the survey results of all the communities in the state stating that their Mayor's term (whether it was two or four years) was pretty much split; many had a two year term and many had a four year term with a few who did not directly elect their Mayor but appointed from among their members. He pointed out that the decision was really up to the Council to decide if they wanted the Mayor's term to be equal to that of the Councilmembers and elect the Mayor every four years instead of every two.

Mr. McGuire commented on a case in Tempe that seemed to say that the Council could do it at the same election, noting that if the Council was to decide the four year question and there was a mayor on the ballot, that that Mayor could serve a four year term. He indicated that he was not comfortable with that scenario so he was recommending that if it was the Council's decision to move forward with placing a four year term before the voters, which would be the method that would be required to change it, that the Council propose the question to the voters in May of 2010, clearly stating on the ballot that the four year term that would not be in effect until the Mayor was elected in 2012 so that there would not be any tie between the position and the person other than the person who was up for election in 2012. He stated the opinion that was the more legally defensible way to do it even though the Sherman case (case mentioned above) appeared to leave the door open to do it. He summarized that if it was the Council's desire to move forward with a four year Mayor's term it would require voter authorization to do it and he proposed that take place at the May 2010 election.

Mr. McGuire provided the answer to the previously asked legal question as to whether the General Plan needed to take place at the general election; confirming that it would be the next regularly schedule election or special election scheduled at least 120 days after the governing body's vote. In response to the Mayor, Mr. McGuire affirmed that the General Plan amendment would go to the voters at the May 2010 election.

Councilmember Dickey indicated her support of a four year Mayor term stating that everyone knew how fast two years passed. She referenced articles in the newspaper over the last few days that spoke about the different groups getting together trying to figure out ways of making the State government work better and one of the proposals was that they at least look at the Senate having four year terms and expressed her preference that they have staggered four year terms. She stated the opinion that whether or not the Council was for placing this question on the Town's upcoming election that it would be a better way to serve the community.

Mayor Schlum asked for clarification that this item was for discussion at this time and Mr. McGuire stated yes. He explained that what staff would need to do was to bring an ordinance forward amending the Town Code to provide for a four year term, provide for the implementation, and schedule with the next step being that the Council adopt it and refer it to the ballot at the May 2010 election. He stated that if there was an indication of support that the Council would like to see the ordinance, staff would bring the ordinance back shortly since time was quickly running out. If there was not the sense that the Council wished to move forward, it would be put on the shelf another period of time until someone else asked. Mayor Schlum questioned if this had formally come before previous Councils. Mr. McGuire stated that it had been discussed two different times and although a code amendment had occurred a while back (under the prior Town Attorney) the change to a four year Mayor term had been stricken from that ordinance that evening at the meeting.

Councilmember Archambault asked Mr. McGuire to expand on what the decision was as to why the Council struck the term change from the ordinance. Mr. McGuire said there was discussion but it was not as detailed as to why, it only covered that people were not in favor of it. Councilmember Archambault stated he was trying to weigh the pros and cons of such a change. He noted that some of the pros covered that someone did not run every two years or prepping to run again a year after they were in office and the point that a learning curve of a new Mayor who had not served before. He spoke of the Mayor's responsibilities noting that he was the figurehead of the community that everyone wanted to tie up his time. He questioned if a four year term was

worthwhile pursuing, or if it should be left status quo, stating that he could see arguments for both sides. Councilmember Archambault noted that if they went to four year terms, the majority of the Council would not change where as currently, there could be four new councilmembers every two years (turnover). He expressed the opinion that was what most citizens wanted and what he tried to think of was more of an even keel; turnover would occur but maybe try to create normalcy there.

Mr. McGuire said the minutes could be provided if needed, commenting that the discussion had involved several speakers. Mayor Schlum confirmed that the last time this was brought forward was in January '99 and in '92. Vice Mayor Hansen confirmed that it occurred in '92 because that was when the first Mayor, John Cutillo, had wanted to have the direct election of the Mayor and the only way the majority of the Council would consider even voting to put it on the ballot was to make the Mayor's term two years. She stated Wally Hudson had brought that forward at that time because he had felt very strongly about that issue. She commented that she was beginning to see where Wally was coming from. She said that something Councilmember Archambault mentioned was that you could have this turnover every four years and she noted that it could be both a good thing and a bad thing. The Vice Mayor expressed the opinion that having it at a two year term provided the flexibility for the voters. She made the observations that if the voters liked the particular four candidates that were in it at a particular time, that would come out at the next election; if the Mayor was a very popular Mayor no one was going to run against him and would become a moot point much as it had with former Mayor Wally Nichols who had run unopposed, which was not the case with Mayor John Cutillo where it had been a very close race. If a person was in office for two years, that two years could be multiplied times over if the voters were happy. She expressed that leaving the decision up to the voters was a workable thing and it worked itself out that way.

Mayor Schlum stated that was definitely a benefit and that he had queried people. He saw one of the benefits as being that the voters had the opportunity to change the council by removing the majority of them through the electoral process. Councilmember Dickey said that would be assuming that those four were always the ones that were in the majority and she saw that as a random thing. She indicated she saw the Mayor's role as being a representative and things like that and did not see the difference as much in duty as the other Councilmembers and she questioned why there was the difference in the terms for a Councilmember vs. the Mayor. She spoke to Mayor's role at MAG and the visibility of the Mayor in the community at large stating she felt it was important to have a Mayor whose position was more stable because you could see a difference in municipalities whose mayors took leadership roles in the League or in MAG; they were able to advocate for their communities in a big way and let people know them. Councilmember Dickey said that when the Councilmembers' terms come up for re-election, she tended to start thinking about the things said and that was a fact. She expressed she was more comfortable with a Mayor's term at four years so that policies and all issues could be looked and so they were not feeling up against a wall all the time, which was unfortunately a fact of quick terms like that. She reiterated she did not see it that differently from the Councilmembers' term pointing out that it was still a choice and an election, with a recall process available if the public wanted to go there. She stated she hoped they could proceed.

Mayor Schlum said those were good points related to effectiveness and town representation. He relayed feedback he received stating that if they went to a four year term, term limits the Council might want to be considered. Councilmember Dickey commented that was another State level reform that was being talked about after they had seen how term limits did not work. Councilmember Archambault asked if that was something the Council could initiate without a charter. Mr. McGuire responded he was reluctant to give the Council the answer right off the bat although he was not aware of any general law towns that had term limits. He indicated he would have to take a look at that. Councilmember Archambault said that what they were discussing had further warrant for more official discussion and questioned if staff could bring back different proposals for the Council to review. He said he might be in favor of looking at the four year term but he wanted to discuss the merits of it and points brought forward by the Vice Mayor.

Vice Mayor Hansen acknowledged that the Mayor position was definitely a leadership role with the amount of presence in Town Hall, assistance with working with the Manager on the agenda, and bringing different things

forward so there was a difference between the Mayor and Council people. She expressed the opinion that the Town had been lucky in its history to see how the Town fared with the different Mayors and that every community had had those they were glad who had served a two year term.

Councilmember Leger said that the same could hold true for a Councilperson (after two years people might want to see a certain Councilperson go) and the community might not take the initiative to do a recall so the point was well taken but he reiterated that it also applied to Councilmembers. He expressed it was a difficult situation and he could see why the previous Councils had tabled it. When looking at three Council people moving off as well as Mayor if none decided to run again, which was a possibility, then you were left filling the critical mass, particularly in a leadership position pointing out that the town manager was not a position that was turned over every two years so there was some consistency in terms of keeping things moving forward. He agreed there was a learning curve (six months) and it sometimes was more than what was bargained for and then six months later the person might be looking at re-election.

In response to the point made by Councilmember Dickey, Councilmember Leger said that mayors who held a four year term did get significantly more involved in a broader scope of things because they had more time; he expressed the opinion that it was a value added to the Town. He felt that Mayor Schlum as a good example as he was currently serving on MAG and perhaps in another year, if still the Mayor, the opportunity might exist to go deeper to get more involved in far reaching activities that could bring value back to the Town in terms of connections, funding, resources etc. He stated that on the effective side four years allowed that to be a more value added position. He stated the Vice Mayor was right that if it was the wrong person, it could be two years too many, but if it was that obvious, people would probably recall a Mayor sooner than a Councilperson. He asked the Vice Mayor, due to her history with the Town, if a Councilperson had ever been recalled in Fountain Hills. The Vice Mayor responded said had been close but that the individual had resigned. Councilmember Leger indicated his willingness to look at an ordinance or a draft of something that looked at this a little closer.

Mayor Schlum asked that the Council give staff a clearer picture on this item and so that it did not drag on it was not be seriously considered in light of the fact that elections were coming up. He indicated that he did not want this element to skew the public's perception. Although no decisions were being made here, if staff did not feel there was overwhelming support for this perhaps it was not something tremendously valuable to consider further.

Councilmember Dickey asked how Councilmember Contino felt and indicated that Councilmember Brown should be consulted. Councilmember Contino responded he preferred it should be left at two years.

Councilmember Dickey said that the Mayor was making the point that with an election coming up the Council would not want to skew things and that was with this being many months before an election that they were already thinking ahead like that. She commented that she would like a Mayor a little freer from that. The Mayor acknowledged that was a good point and he asked the question of where were they on this item.

Councilmember Leger said he was picking up on the Mayor's sensitivity to this discussion. The Mayor indicated he was trying to stay out of it to which Councilmember Dickey said that he should not as they were talking about the position. Councilmember Leger made the observation that it was perfectly clear that this was not something that the Mayor had put on the table or advocated for. Mayor Schlum commented that all elected people operate with wanting the best for their community and he questioned if this could become a divisive issue if it did come back before the Council although it did not appear that it would be.

Councilmember Leger asked if the Mayor's preference was to address this after the election and the Mayor indicated that might be a better time for it to come forward although he was not looking for a special election to occur. Mr. McGuire clarified that it would either always occur on an election where the Mayor was on the ballot or it would occur with a special election. Mayor Schlum stated his preference for the ballot language as stated by Mr. McGuire (the term would not kick in until the next time) as that would help to remove from an area an element that might muddy up more important issues. Councilmember Leger pointed out that they were

trying to guess how the citizens would feel about it and obviously they would let the Council know if it were on the ballot. Councilmember Archambault concurred. Councilmember Dickey asked when the decision would have to be made to get it on the May ballot and the Mayor responded sometime in January. Councilmember Dickey questioned if the Council could take a look at what the Sandra Day O'Connor's group was doing and why they felt a four year term was better or the legislature. She indicated her preference to be in front of the bubble for a change.

Vice Mayor Hansen commented that the legislature was different from local government. She asked why not simplify this by asking staff to put the resolution together, put it before the Council, and if it passed, put it on the ballot noting that the Town was to have an election in May for the General Plan. Councilmember Archambault said that then the citizens could vote.

Town Manager Davis stated if this ordinance did not have any relevance to the upcoming election, which was pretty clear it wasn't wanted, it might not hurt to wait past this election and dovetail it with some other issue on a ballot in the future (perhaps November). That way there would not be any confusion on the part of citizens that they were trying to marry this initiative with the municipally election held in May. He did not feel the May timing to be wise. The November timing would be better since there was no relevance to the May election.

Councilmember Leger stated he liked that idea since it took away the perception that this Council and/or the Mayor was trying to stack the deck. Councilmember Archambault asked if this was something that could be placed on the November election ballot. Mr. McGuire responded that he would need to determine that the term was not General Election before answering definitively but in general there were four elections dates that the Town was allowed to use each year. Councilmember Archambault commented that it made sense if they could put it on the November or September election ballot as that would remove any misunderstanding or confusion that this Mayor would be elected for four years. He indicated that he would certainly look favorably on something like that as opposed to having it on a Council election ballot as he felt it could become an issue no matter on which Council election ballot it appeared (took the politics out of it). He said he would like Mr. McGuire to look into if that could be done.

Vice Mayor Hansen pointed out that if it were put on a state-wide ballot and the Town only had the one item on the ballot, it became the Fountain Hills' obscure little question or it could be construed that they were trying to hide the question on the ballot when people might not be so aware that Fountain Hills was having a question on the ballot. Town Manager Davis said that the Town would just have to be more effective in communicating. Mayor Schlum asked if staff knew if the Council wanted to have this come back and when. Mr. Davis stated that it appeared they did.

Councilmember Dickey remarked that it should come back to the Council six months before November and Mayor Schlum reiterated that it would come back after the election. Councilmember Leger stated that it did not give the impression that they were hiding anything and the Vice Mayor clarified that she was not implying that was what the Council was trying to do, but was merely suggesting that it could be construed that way. Mr. Davis stated that extra communication would be necessary to ensure that people were aware of the question and he proposed that might not be the only initiative placed on the November ballot. Mayor Schlum acknowledged the good dialogue that had taken place and stated that the Councilmembers would continue their conversations with the Town Manager.

#### **AGENDA ITEM #7 - ADJOURNMENT.**

Mayor Schlum adjourned the meeting at 7:15 p.m.

**TOWN OF FOUNTAIN HILLS**

By \_\_\_\_\_  
Mayor Jay T. Schlum

ATTEST AND  
PREPARED BY:

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Study Session held in the Fountain Hills Council Chambers by the Town Council of Fountain Hills on the 13<sup>th</sup> day of October, 2009. I further certify that the meeting was duly called and that a quorum was present.

Dated this 5<sup>th</sup> day of November 2009.

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk